

MAR 17 2006**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS****NOT FOR PUBLICATION****UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ANH THOAI HUYNH,

Defendant - Appellant.

No. 04-30232

D.C. No. CR-03-00226-010-MJP

MEMORANDUM* and ORDER

Appeal from the United States District Court
for the Western District of Washington
Marsha J. Pechman, District Judge, Presiding

Submitted March 8, 2006**

Before: CANBY, BEEZER, and KOZINSKI, Circuit Judges.

Anh Thoai Huynh appeals from her 30-month sentence imposed following a guilty plea for conspiracy to engage in money laundering, in violation of 18 U.S.C. § 1956(h). We have jurisdiction pursuant to 28 U.S.C. § 1291.

Appellant was sentenced under the then-mandatory Sentencing Guidelines,

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

** This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

and we cannot reliably determine from the record whether the sentence imposed would have been materially different had the district court known that the Guidelines were advisory. “We have held that ‘where the district court did not treat the sentencing guidelines as advisory but the defendant's sentence was not enhanced by extra-verdict findings,’ a nonconstitutional sentencing error has occurred.” *United States v. Brown*, 417 F.3d 1077, 1080 (9th Cir. 2005) (per curiam), *citing United States v. Ameline*, 409 F.3d 1073, 1084 n.8 (9th Cir. 2005) (en banc). Appellant shall notify the court within 14 days of the filing date of this memorandum disposition if appellant wants to pursue an *Ameline* remand. *See id.* at 1084. If appellant does not respond to this inquiry, the district court’s sentence shall be affirmed.

BRIEFING ORDERED.